

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

KRISTEN DREYER,

Plaintiff,

No. CV 05-418-HU

OPINION AND ORDER

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MOSMAN, J.,

On July 23, 2008, Magistrate Judge Hubel issued Findings and Recommendation ("F&R") (#40) in the above-captioned case recommending that I GRANT the plaintiff's Motion for Attorney Fees (#32). No objection to the F&R was filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are

addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Hubel's recommendation, and I ADOPT the F&R (#40) as my own opinion.

Attorney fees in the amount of \$15,838.03 are hereby awarded to Plaintiff's attorney pursuant to 42 U.S.C. § 406(b). The Court finds this a reasonable fee. Previously, this Court awarded \$7,499.99, pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. When issuing the § 406(b) check, the agency is directed to subtract the amount previously awarded under the EAJA, and to send to plaintiff's attorney at his current address, the balance of \$8,338.04, minus any user fee. Any amount withheld (including the EAJA fee offset) after all administrative and court attorney's fees are paid, should be released to the claimant.

IT IS SO ORDERED.

DATED this 22nd day of August, 2008.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court